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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,597	01/20/2000	Evgeniy M. Getsin	IACTP017	6029
22242	7590	07/27/2004	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			BASHORE, WILLIAM L	
			ART UNIT	PAPER NUMBER
			2176	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/489,597

Applicant(s)

GETSIN ET AL.

Examiner

William L. Bashore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/16/2004, 4/5/2004, 4/12/2004, 4/14/2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: amendment filed 4/5/2004, to the original application filed 1/20/2000. IDS filed 9/26/2001 (as paper 7), also IDS filed 3/15/2004, 4/5/2004, 4/12/2004, and 4/14/2004.
2. The rejection of claims 6, 12, 18 under 35 U.S.C. 112 second paragraph, has been withdrawn as necessitated by amendment.
3. Claims 1-18 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts.
4. Claims 1-18 are pending. Claims 1, 7, 13 are independent.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. (hereinafter Roberts), U.S. Patent No. 6,161,132 issued December 2000 (previously cited in IDS paper 7).**

In regard to independent claim 1, Roberts teaches synchronization of entertainment media to musical CD recordings within client devices in a network chat room environment, utilizing plug-ins (Roberts column 2 lines 19-26, column 6 lines 61-67, column 7 lines 10-24; compare with claim 1 “*A method for identifying playback devices of a plurality of client apparatuses which are networked to simultaneously playback an event, comprising the steps of:*”

Roberts teaches a command plug-in for aiding in the playing of a musical recording, said plug-in gathers information regarding the capabilities of the client's CD drive, therefore determining the type of drive (i.e. 2x,

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4x, etc.) (Roberts column 4 lines 1-16). Roberts also teaches said embodiment controlling devices other than audio CDs (i.e. DVD, etc.) (Roberts Abstract, column 2 lines 5-10) (compare with claim 1 “*identifying a type of the playback device of each of the client apparatuses*”).

Roberts teaches a remote host initiating actions on a client device, as well as said host becoming aware of user initiated actions on said device (i.e. CD player buttons, etc. (Roberts column 2 lines 5-26). In order for said host (i.e. server or chat server) to become aware of the client device controls, the command data regarding said controls must be made available to the host (compare with claim 1 “*looking up a command associated with the identified type of the playback device*”).

Roberts teaches a chat host using the commands of a client device for synchronizing the display of content using a unique identifier (of the CD), as well as synchronization of participating client CDs by comparing and synchronizing information (i.e. start times, audio volumes, etc.) between devices during a chat room session using plug-ins (Roberts column 6 lines 60-67, column 7 lines 10-37 to column 8 lines 1-2). Roberts does not specifically teach said synchronization of client devices based upon analyzing device type capabilities, as claimed. However, Roberts teaches a plug-in which collects capabilities about a CD drive (Roberts column 2 lines 1-18, column 4 lines 1-16). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the plug-in analyzing CD capabilities and controls, to Robert’s chat room embodiment, to provide the claimed equivalent of analyzing device type commands for chat room CD device synchronization, providing Robert’s the benefit of synchronization of audio CD devices with a wide array of different characteristics (i.e. speed 1x, 2x, 4x, 8x, etc.) (compare with claim 1 “*sending the command to the corresponding client apparatus for beginning the playback of the event simultaneously with the playback of the event on each of the remaining client apparatuses.*”).

In regard to dependent claim 2, Roberts teaches both visual and audio presentations (Roberts column 4 lines 58-67 to column 5 lines 1-27).

In regard to dependent claim 3, claim 3 incorporates substantially similar subject matter as claimed in claim 1, and in further view of the following, is rejected along the same rationale.

Roberts teaches a chat room network for identifying and synchronizing devices as explained in the rejection of claim 1 above (see also Roberts Abstract, column 6 line 61, to column 7 lines 30).

In regard to dependent claim 4, Roberts teaches the Internet (a wide area network) (Roberts column 1 lines 57-61).

In regard to dependent claim 5, Roberts teaches generation of a unique identifier associated with musical recordings on a CD, as well as a CD key for entering special Web areas (Roberts column 6 lines 49-60). Roberts does not specifically teach a client apparatus storing an identifier for identifying a host (i.e. Roberts's chat room host embodiment does not store host identification in the client device), as claimed. However, since it is known that chat session synchronization between a chat server and clients involve communication between said server and all participating clients, Roberts's teaching of said chat room embodiment provides the claimed equivalent of a host identifier so that two way communication can commence. It would have been obvious to one of ordinary skill in the art at the time of the invention to interpret Roberts in this fashion, providing a client device of Roberts a key piece of essential information so that the client device knows the identification of the chat server.

In regard to dependent claim 6, Roberts teaches an embodiment utilizing a DVD device (Roberts column 2 lines 5-10).

In regard to independent claim 7, claim 7 reflects the computer program product comprising computer readable instructions used for performing the methods as claimed in claim 1, and is rejected along the same rationale.

In regard to dependent claims 8-12, claims 8-12 reflect the computer program product comprising computer readable instructions used for performing the methods as claimed in claims 2-6, respectively, and are rejected along the same rationale.

In regard to independent claim 13, claim 13 reflects the system comprising computer readable instructions used for performing the methods as claimed in claim 1, and is rejected along the same rationale.

In regard to dependent claims 14-18, claims 14-18 reflect the computer program product comprising computer readable instructions used for performing the methods as claimed in claims 2-6, respectively, and are rejected along the same rationale.

Response to Arguments

7. Applicant's arguments filed 4/14/2004 have been fully and carefully considered but they are not persuasive.

Applicant's arguments on pages 8-11 are substantially directed towards the assertion that Roberts does not teach looking up a command associated with the identified type of playback device, and sending the command to the corresponding client apparatus for beginning the playback of the event simultaneously with the playback of the event on each of the remaining client apparatus.

The examiner respectfully notes that at least the Abstract of the Roberts reference teaches "A plug-in for the browser is able to control an audio CD or other device for playing the musical recording.". Roberts also teaches a chat room embodiment which provides all participants with the same music at approximately the same time (Roberts column 6 lines 60-65). Roberts's invention notes the track, as well as time of play, volume, etc., then sets each CD player in each client to the same specification, facilitating approximate synchronization of all participating clients (Roberts column 7 lines 30-38, column 8 lines 1-14, see also Roberts column 4 lines 1-16).

The skilled artisan is aware of changing computer technology, typically resulting in faster, more powerful devices (i.e. increase in speed of CPUs over the past 20 years). This generally holds true for CD-ROM and DVD devices as well. The skilled artisan is also aware that the power/speed of each client's system has a bearing on network synchronization of data between clients. One of the functions of Roberts plug-in is to "Get information regarding the capabilities of the CD drive." (Roberts column 4 lines 15-16).

Even if one is to assume that the CD speeds indicated by the examiner are recording speeds only (and the Office is not admitting this), the differing speeds are indicative of the technology used at the time each device was made. Maximum slower "recording" speeds generally reflect older (i.e. slower) technology, which has a bearing on the playback "seek time" of each device (older CD-ROM and DVD devices generally have longer playback seek times).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Bashore whose telephone number is (703) 308-5807. The examiner can normally be reached on Monday through Friday from 11:30 AM to 8:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild, can be reached on (703) 305-9792.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703-872-9306) (for formal/after-final communications intended for entry)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER

William L. Bashore
Patent Examiner, AU 2176
July 24, 2004